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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

In the Matter of)
Administration of the)
North American Numbering Plan)

**REPLY COMMENTS OF
METROPOLITAN FIBER SYSTEMS, INC.**

Metropolitan Fiber Systems, Inc. ("MFS"), by its undersigned counsel, submits this reply, pursuant to the Public Notice, DA 91-1307, released October 18, 1991, to the comments filed with the Commission in response to the Petition of the National Association of Regulatory Utility Commissioners ("NARUC") requesting the issuance of a Notice of Inquiry regarding the administration of the North American Numbering Plan ("NANP").

Approximately 25 sets of comments were filed in response to NARUC's Petition, indicating that there is a high level of concern among interested parties in numbering plan issues. Moreover, nearly all segments of the industry, except for some of the larger local exchange carriers ("LECs"), agreed with NARUC that there is a need for a Commission inquiry into these issues. Besides the state regulatory commissions, support for an inquiry was expressed by interexchange carriers (AT&T, MCI, Allnet), cellular and paging providers (McCaw, Telocator), competitive access providers (MFS, Teleport) and Canadian carriers (Rogers Cantel, Unitel). Even some major LECs, including

BellSouth, Centel, and Rochester Telephone, as well as the National Telephone Cooperative Association representing small LEC interests, support NARUC's Petition.

Those LECs who oppose the Petition generally argue that the current NANP process is working well, that Bell Communications Research, Inc. ("Bellcore") is carrying out its administrative duties satisfactorily and even-handedly, and that industry forums and standards organizations can handle any numbering plan issues that may arise. But, if this were indeed the case, it is hard to believe that *no one* except the LECs would have noticed.

The problem underlying the NARUC Petition, which creates the need for Commission inquiry, is that the LECs have a much different perspective on numbering plan issues than any other party. It is significant that the existing numbering plan was designed almost fifty years ago to meet the needs of the then-existing wireline telephone network, in which there was only one common carrier in any given geographical area, and that carrier controlled every aspect of the telecommunications network right down to the color of the telephone on the customer's desk. The NANP administration that exists today is a direct descendant of the original Bell System numbering plan, and it still meets the needs of the entrenched monopoly service providers pretty well. The industry forum process, which operates by "consensus," also operates well (usually) as long as

it is only considering technical issues involving modest, incremental changes to the numbering plan.¹

The process breaks down, however, when confronted with more basic policy issues and with entirely new concepts (such as "personal telephone numbers").² As several commenting parties noted, Bellcore tends to adopt the attitude that "traditional" uses of numbering codes must be protected—which, not coincidentally, means protecting the traditional monopolies who created the numbering system in the first place. *See, e.g.,* Comments of Telocator at 4-5, McCaw at 12, MCI at 5-8. Cellular carriers were unable to receive assignments of NXX codes for their "non-traditional" service until this Commission ordered the BOCs to act. *The Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services*, 59 RR 2d 1275 (1986).

It is unrealistic to expect industry forums and committees to reach "consensus" on numbering plan changes that could open up new opportunities for competition against the LECs, because the LECs themselves are one of the major groups that would have to join in reaching a consensus. As AT&T stated, "[i]nter-industry discussions can . . . be

¹ This is not to suggest that the industry forums are unimportant. As GTE correctly stated in its comments, "[s]mall changes in the numbering plan can magnify to large costs for everyone in both convenience and dollars." GTE Comments at 2. Such numbering changes as "interchangeable" area codes and four-digit CIC codes may therefore have substantial industry impacts, even though they are *in concept* only very minor modifications of the existing schemes.

² The introduction of interchangeable area codes in 1995 will create 640 new area codes, more than quadrupling the capacity of the existing numbering system. Each area code can, in theory, accommodate about 7.8 million telephone numbers. If only 64 of the 640 new codes were reserved for "personal," non-geographic number assignments, this would enable the assignment of 500 million numbers: enough to assign one to every living person in the United States and Canada, including infants, with a significant reserve for future population growth.

contentious and in the absence of an established process to handle disputes, may lead to no resolution at all or may achieve resolution only after unnecessary delay." AT&T Comments at 3 n.**. The LECs have no incentive, for example, to seek a consensus with other carriers on the crucial policy issue of local number portability, as discussed in MFS' initial comments in this matter, since any such agreement would make it easier for others to compete against LEC services.

In any case, it is doubtful that the Commission would want to leave *all* numbering issues to the industry even if there were not these flaws in the process. The Commission is charged by Congress with the responsibility of promoting "a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges" Communications Act of 1934, Section 1, 47 U.S.C. § 151. Although it may be proper for the Commission to delegate technical and administrative functions to industry bodies, the ultimate responsibility for setting policy directions must remain with the Commission itself (as must the responsibility for assuring that industry technical efforts are consistent with its policies). As MFS and other parties explained in their initial comments, the apparently technical issue of numbering is, in many cases, actually the key to opening up new markets and making use of new technologies. The Commission has a responsibility to assure that numbering issues are resolved in a manner

that is consistent with its policy goals, including the recently-articulated goal of fostering greater competition in the provision of interstate access services.³

MFS suggests that an inquiry into numbering plan issues should focus primarily on policy issues, including (1) the inclusion of new services and new applications within existing numbering plans, *especially local number portability*; (2) the procedures for reaching decisions and resolving disputes within industry bodies that have numbering plan responsibilities; (3) the appropriateness of retaining Bellcore as the NANP Administrator, or of transferring some or all of its responsibilities to another entity; and (4) assuring that all numbering systems are administered in a non-discriminatory and equitable manner. The Commission probably should avoid detailed scrutiny of the technical minutiae of numbering plans, but instead to seek to ascertain overall goals and to assure itself that the *processes* for developing and implementing numbering plans are structured properly.

It should be stressed that a Commission decision to investigate these issues would not presuppose any particular outcome, nor would it even commit the Commission to proceed to rulemaking on any specific issue. The purpose of a Notice of Inquiry is to determine broadly the nature and scope of a problem, and to suggest the types of actions, if any, that thereafter may be necessary to address the identified areas of concern.⁴ The

³ See *Expanded Interconnection to Local Telephone Company Facilities*, CC Docket No. 91-141, Notice of Proposed Rulemaking and Notice of Inquiry, 6 FCC Rcd. 3259, paras. 11-16 (1991); *Transport Rate Structure and Pricing*, CC Docket No. 91-213, Order and Further Notice of Proposed Rulemaking, 6 FCC Rcd. 5341, paras. 8, 11 (1991).

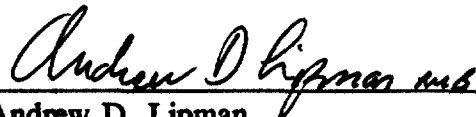
⁴ See, e.g., *Interdependence of Computer and Communication Services*, Notice of Inquiry, 7 FCC 2d 11 (1966).

LECs who oppose an inquiry seem to believe that, since they already know all the answers, the Commission should not even be asking the questions. *See, e.g.,* Comments of Ameritech at 18 ("NARUC asks whether the BOCs can derive a competitive advantage from NANPA being a part of Bellcore. The answer is no."). However, numerous other parties have shown that significant issues do exist; these issues are of sufficient importance to justify gathering additional information and considering policy options. It is possible that, as to some issues, the Commission may find that no further action is necessary after conducting an inquiry.⁵ Yet, it would be an abdication of the Commission's responsibility to fail to investigate the serious issues that have been raised by NARUC and various commenting parties.

⁵ For example, it is possible that administration of the NANP could be left with Bellcore if the Commission is convinced that Bellcore is performing only technical and ministerial duties, and does not have an opportunity to use its position to discriminate against competitors of the BOCs or to retard the introduction of new services and network capabilities. Based upon the comments filed in response to NARUC's Petition, however, there is reason to doubt whether that is the case.

For these reasons, the Commission should grant NARUC's petition and issue a Notice of Inquiry regarding the administration of, and policy concerning, the North American Numbering Plan.

Respectfully submitted,

A handwritten signature in cursive script, reading "Andrew D. Lipman", is written over a horizontal line.

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